
In the Rajasthan High Court

Case No : D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 483/2025

Rajendra Singh S/o Shri Sadhu Singh APPELLANT

Vs

State Of Rajasthan, Through Pp RESPONDENT

Date of Decision : 28-07-2026

Acts Referred:

Indian Penal Code — Sections 302 and 120B

IPC — Sections 302/34, 120B, 341, 323/34 and 324/34

Hon'ble Judges : Praveer Bhatnagar, J; Dr. Pushpendra Singh Bhati, J

Bench : Division Bench

Advocate : Mr. Kaushal Sharma, Mr. Sarwan Singh Rathore, P.P.

Final Decision : Application allowed

Judgement

Date of conclusion of arguments:- 16.07.2026 Date on which the judgment was Reserved:- 16.07.2026 Whether the full judgment or only the operative part is pronounced:- Full Judgment Date of pronouncement:- 28.07.2026 Per: Praveer Bhatnagar, J.

1. The instant D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) has been filed by the accused-petitioner seeking suspension of the sentence imposed in Sessions Case No. 5/2004 passed by ADJ Raisinghnagar, Sriganganagar vide judgment dated 23.06.2023, whereby the petitioner, along with other co-accused, was convicted and sentenced under Sections 302 and 120B of the Indian Penal Code, as detailed below :- Offences under Punishment In default of Sections imposed payment of fine, further undergo 302/34 of IPC Life imprisonment Additional rigorous with fine of Rs. imprisonment of six 20,000/- months 120B of IPC Life imprisonment Additional rigorous with fine of Rs. imprisonment of six 20,000/- months

2. Learned counsel for the petitioner argues that the petitioner's custody has been approximately more than four years and during the trial, the accused remained consistently on bail, strictly complying with all conditions. There is no viable prospect of listing or hearing a regular appeal in this matter.

3. Key eyewitnesses to the initial altercation noticeably PW 1 Krishan Lal s/o Deva Ram, PW2 Jagdish, PW 4 Mangilal s/o Bhura Ram, PW 5 Satpal, PW 6 Dularam, PW 7 Shrawan Kumar (injured witness), PW 8 Mangilal s/o Angar, PW 9 Pavan Kumar, PW10 Mangilal s/o Sohanlal, PW 11 Udham Singh, PW 12 Sukhram, PW 13 Krishan Lal s/o Jaisaram, PW 14 Shankarlal have turned hostile and resultantly, the other co-accused, namely, Mangilal and Bugar Singh, who were charged under Sections 341, 323/34 and 324/34 of the IPC, have been acquitted by the Trial Court vide impugned judgment dated 23.06.2023.

4. Prosecution further alleges that petitioner and the other co-accused, namely, Raju Singh and Sadhu Singh also arrived at the place of altercation and petitioner was driving the Eicher tractor. The prosecution also alleges that the aforesaid co-accused and the petitioner also started abusing the deceased Nemichand and striking with the lathi.

5. Learned counsel for the petitioner further submits that no charges were framed against the petitioner and the co-accused Raju Singh and Sadhu Singh that they also participated in the altercation and struck the lathi blow at the head of Nemichand and also caused injuries to injured Shrawan Kumar. The aforesaid eyewitnesses, in their depositions before the Trial Court, have not even named the present petitioner and other co-accused Raju Singh and Sadhu Singh who have also been charged under Section 302 read with 120B of the Indian Penal Code. Thus, prosecution failed to establish the presence of the present petitioner and other co-accused Raju Singh and Sadhu Singh.

6. Learned counsel for the petitioner further submits that out of aforesaid witnesses, PW-1 Krishan Lal, PW-2 Jagdish, PW-4 Mangilal son of Bhura Ram, PW-10 Mangilal son of Sohanlal who also stated to have witnessed the occurrence of deceased Nemichand's death also have not supported the prosecution story. Therefore, apart from PW-3 Rai Sahab and PW-16 Krishan Kumar, whose presence at the place of occurrence is highly doubtful and interested witnesses as being real brother and father-in-law of the deceased, cannot be relied upon and the reasonable possibility that petitioner and the other co-accused Raju Singh and Sadhu Singh have been falsely implicated cannot be ruled out.

7. Learned Public Prosecutor vehemently opposed the grant of suspension of sentence and pleaded for the rejection of the application.

8. In the aforesaid backdrop, heard the rival contentions and perused the material available on record.

9. Hon'ble the Apex Court in Criminal Appeal No. 2000 of 2025 (Arising out of SLP(Crl.) No.12478 of 2024) Balram Dangi vs Veer Singh Dangi & others, reproduced and relied upon the observations made in Omprakash Sahni Vs Jai Shankar Chaudhary and another (2023) 6 SCC 123, held as follows: "Bearing in mind the aforesaid principles of law, the endeavour on the part of the court, therefore, should be to see as to whether the case presented by the prosecution

and accepted by the trial court can be said to be a case in which, ultimately, the convict stands for fair chances of acquittal. If the answer to the abovesaid question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually takes very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has a fair chance of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The appellate court should not reappreciate the evidence at the stage of Section 389 CrPC and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach."

10. In the light of the above settled principles, after going through the record, we find that admittedly, two witnesses who gave testimony about the petitioner's culpability in causing death concerning deceased Nemichand by overrunning the tractor, were not present when the alleged altercation took place and thus, the foundational fact that before the alleged incident the petitioner was present remained unproved.

11. Furthermore, the presence of the aforesaid two witnesses, Rai Sahab and Krishan Kumar, has been seriously questioned during cross-examination, as they are admittedly the brother and father-in-law of the deceased respectively and the fair plausibility of the petitioner's acquittal cannot be ruled out.

12. It is undisputed that the petitioner was on regular bail during the trial and never breached the bail conditions. Apart from this, the petitioner remained in custody for more than four years. Possibility of listing of the case for the final hearing of the appeal in the near future seems improbable.

13. Accordingly, the application for suspension of sentence filed by the applicant is hereby allowed. It is ordered that the sentence passed by the learned ADJ Raisinghnagar, Sriganaganagar vide its judgment dated 23.06.2023, in Sessions Case No. 5/2004 against the applicant – Rajendra Singh S/o Shri Sadhu Singh shall remain suspended till final disposal of the aforesaid appeal and he shall be released on bail, provided he executes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned Trial Judge for his appearance in this Court on 17.08.2026 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-(i) That he will appear before the Trial Court in the month of January of every year till the appeal is decided. (ii) That if the applicant changes the place of residence, he will give in writing his changed address to the Trial Court as well as to his counsel in the High Court. (iii) Similarly, if the sureties change their address, they will give in writing their changed address to the Trial Court.

14. The learned Trial Court shall keep the record of attendance of the accused-applicant in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the Trial Court. In case the said accused-applicant does not appear before the Trial Court, the learned Trial Judge shall report the matter to the High Court for cancellation of bail.

15. Needless to state that the observations made hereinabove in relation to guilt or otherwise of the applicant are prima facie opinion considering the material to the extent necessary for the purpose of consideration of instant application. None of the parties shall rely upon the findings or observations made herein at the time of arguing final hearing of the appeal. (PRAVEER BHATNAGAR),J
(DR.PUSHPENDRA SINGH BHATI),J